

Applicant: Sowinski et al.
Application No.: 10/776,576
Office Action dated December 13, 2007
Amendment and Response dated March 11, 2008
Docket No.: 760-102 DIV
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Remarks/Arguments:

Introduction

Claims 1-20 are pending. Claim 1 has been amended more positively recite method steps and to positively define the formed product from the method steps. Claims 2, 6-12 and 14 have been amended for antecedent basis following the amendments to claim 1. Claim 4 has been amended to better define the limitations presented therein. Claims 16-20 have been added. Support for newly added claim 16 may be found in previously presented claims 1-3. Support for newly added claim 16 may be found in previously presented claims 1-3. Support for newly added claim 17 may be found in the specification at paragraph [0045], line 8. Support for newly added claim 18 may be found in previously presented claims 1, 3 and 13. Support for newly added claim 19 may be found in previously presented claim 2. Support for newly added claim 20 may be found in the specification at paragraph [0042], lines 4-5. No new matter is introduced with these amendments. Entry of the claim amendments is respectfully requested.

Section 112 Rejections

Claims 4 and 6 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicants respectfully submit that with the claim amendments presented herewith the Section 112 concern are obviated. Reconsideration and withdrawal of the Section 112 rejections are respectfully requested.

Double Patenting Rejections

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claim 24 of U.S. Patent No. 6,716,239 B2. Applicants respectfully traverse.

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Claim 1 as filed was represented as claim 21 in Application No. 09/898,415, now U.S. Patent No. 6,716,239. Claim 24 of the granted patent, i.e., U.S. Patent No. 6,716,239, was represented as claim 36 in the corresponding application and subject to a restriction requirement under 35 U.S.C. §121 in an Office Communication dated October 2, 2002 as being to a distinct invention from claim 21 in that application. As the Patent Office has ruled that these two methods are distinct inventions, it is respectfully submitted that the nonstatutory obviousness-type double patenting rejection be withdrawn. Furthermore, Applicants respectfully submit that with the claim amendments presented herein, that the nonstatutory obviousness-type double patenting rejection is moot and should be withdrawn. Reconsideration and withdrawal of the nonstatutory obviousness-type double patenting rejections is respectfully requested.

Claims 1 and 14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claim 2 of copending Application No. 11/206,657. Applicants respectfully submit that with the amendments made to claim 1 that the nonstatutory obviousness-type double patenting over copending Application No. 11/206,657 should be withdrawn. Reconsideration and withdrawal of the provisional nonstatutory obviousness-type double patenting rejections is respectfully requested.

Nevertheless, if the examiner maintains the nonstatutory obviousness-type double patenting rejections, then upon indication of allowable subject matter Applicants are willing, if appropriate, to file a terminal disclaimer.

Section 102 Rejections

The claims were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,877,661 to House et al. (hereinafter "House"). Applicants respectfully traverse.

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House discloses expansion or stretching of PTFE to form a tube of ePTFE with a node and fibril structure. This stretched material is the “compressed in the direction parallel to but opposite to the direction in which it was originally expanded by stretching.” (House, column 3, lines 24-27). Such a technique results in substantially all of the fibrils having a bent or wavy orientation. (House, column 4, lines 23-24)

House, however, fails to disclose, *inter alia*, the steps of longitudinally stretching a polytetrafluoroethylene tube followed by radially expanding the tube, as set forth in the independent claims of the subject application. The second “action” of force in House is parallel and opposite to the first “action” of force in House. Moreover, House specifically teaches that its method bends its fibrils into a wavy orientation or reorients its fibrils in a longitudinal manner to so bend the fibrils. This is direct contrast to the present invention where the fibrils are reoriented by hingeably rotating the fibrils about the nodes. In other words, the fibrils of the present invention are not bent into a wavy configuration as required by House.

Therefore, House fails to disclose the present invention as defined by independent claims 1, 16 and 18. Reconsideration and withdrawal of the Section 102 rejections over House are respectfully requested.

REMARKS:

Therefore, Applicants respectfully submit that independent claims 1, 16 and 18, and all claims dependent therefrom, are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

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Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

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